

# EXHIBIT B

**Partner**

Litigation

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**Practice Areas**

Cross Border Insolvencies

Financial Fraud Litigation

Mass Tort Bankruptcies

Mass Tort MDL Litigation

Commercial Litigation

Intellectual Property Litigation

Financial Institutions

Securities

**Education**

New York University School  
of Law – J. D., *cum laude*,  
1982

- Order of the Coif

Brandeis University – B.A.,  
*summa cum laude*, 1979

- Phi Beta Kappa

**David J. Molton**

David Molton specializes in complex financial and commercial litigation matters in federal, state and bankruptcy courts in the United States, and he represents foreign liquidators, official committees of creditors, unofficial ad hoc committees of creditors and interested parties in financial fraud and mass tort related litigations and bankruptcies in the United States and in foreign jurisdictions. In the 2015 edition of *Benchmark Litigation*, David is commended as *"a true trial lawyer"* and *"a strategic thinker who plays the long game and doesn't get bogged down in the short-game issues."*

David was recently made a Fellow of INSOL International, a world-wide federation of national associations for lawyers, accountants and other professionals who specialize in turnaround and insolvency in domestic and cross-border cases.

After graduating from New York University School of Law, David clerked for the Honorable J. Edward Lumbard of the United States Court of Appeals for the Second Circuit. Earlier in his career, David served as an Assistant District Attorney in and for the Office of the District Attorney for New York County, where he was assigned to the Special Narcotics Prosecutor for the City of New York under the Honorable Sterling Johnson, Jr. As a prosecutor, David supervised joint federal/state law enforcement task force teams and investigations for the New York Drug Enforcement Task Force and the Organized Crime Drug Enforcement Task Force and prosecuted cases involving (i) organized crime related narcotics conspiracies and distribution networks, and (ii) efforts to locate, seize and effectuate the forfeiture of proceeds and assets connected to those criminal activities.

**SIGNIFICANT REPRESENTATIVE MATTERS**

David's more recent engagements include:

- Representing Lead Counsel in the GM Ignition Switch Defect MDL Litigation (S.D.N.Y.) as Plaintiffs' Designated Counsel in the Bankruptcy Court (Bankr.



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S.D.N.Y.) opposing GM's motion to enjoin plaintiffs' economic injury claims based on the injunction contained in the bankruptcy Sale Order by which the assets of Old GM were transferred to New GM in the GM bankruptcy in 2009. As Plaintiff's Designated Counsel, David and his colleagues are charged by MDL Lead Counsel with defeating New GM's efforts to use the GM Sale Order injunction to shield New GM from liability for billions of dollars of economic loss damages to plaintiffs.

- Representing the American Association for Justice and the New Jersey Association for Justice in submitting an Amici Curiae brief to the US Supreme Court in support of the Petition for a Writ of Certiorari, filed by Dean Erwin Chemerinsky of the University of California Irvine Law School, on behalf of injured diacetyl plaintiffs in connection with the Third Circuit's decision in *Diacetyl Plaintiffs v. Aaroma Holdings (In re Emoral), LLC*, 740 F.3d 845 (3d Cir. 2014), where the Third Circuit held that the injured plaintiffs' claims against a successor to the debtor were property of the estate which could be settled by the bankruptcy trustee.
- Representing the Japanese Bankruptcy Trustee of the failed global Bitcoin exchange Mt. Gox, which had been the world's largest exchange for this digital currency, in connection with the company's Chapter 15 case in Bankruptcy Court in Texas and related litigation in the United States. David and his team obtained Chapter 15 recognition of the Japanese bankruptcy proceeding as a foreign main proceeding, thereby staying all US litigation against Mt. Gox for the benefit of its foreign insolvency proceeding.
- Representing the BVI Liquidator of the Fairfield Funds (the largest feeder funds into the Madoff Ponzi scheme) in the Funds' Chapter 15 case in Bankruptcy Court in New York and related litigation in the United States and elsewhere in the world. Among the achievements achieved by David and his team to date are (i) obtaining recognition from the Bankruptcy Court of the BVI liquidation proceedings as foreign main proceedings under Chapter 15 of the Bankruptcy Code and obtaining affirmance of that judgment in a seminal and first impression decision of the United States Court of Appeals for the Second Circuit



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(*Morning Mist Holdings Ltd. v. Krys (In re Fairfield Sentry Ltd.)*, 714 F.3d 127 (2d Cir. 2013)), and (ii) obtaining another seminal and first impression Second Circuit decision making Bankruptcy Code Section 363 applicable to the foreign liquidator's sale of the Funds' claim against the Madoff SIPA estate, thereby giving the foreign liquidator an opportunity to seek to undo that deal for the benefit of the Funds' creditors and stakeholders based on changed circumstances (*Krys v. Farnum Place, LLC (In re Fairfield Sentry Ltd.)*, 763 F.3d 239 (2d Cir. 2014)). David and his team are also prosecuting over 300 clawback actions commenced by the foreign liquidator and the Funds against certain of the Funds' redeemers. The clawback actions, which are presently pending in the Bankruptcy Court in New York, seek the return to the Funds of over \$6 billion in overpaid redemptions.

- Representing the Official Committee of Unsecured Creditors (principally tort victims) in the New England Compounding Center Chapter 11 case pending in Bankruptcy Court in Boston, the objective of which is the resolution of injury and wrongful death cases resulting from the meningitis outbreak caused by the debtor and its operations in 2012. David and his team, together with the Creditors' Committee and other bankruptcy parties, have achieved settlements with allegedly culpable parties exceeding \$100 million which will be distributed through a bankruptcy Chapter 11 plan to injured victims of the outbreak.
- Representing the External Administrator of Awal Bank, BSC (a Bahraini bank implicated in the Al Gosaibi Group/Saad Group global dispute) in the bank's Chapter 15 case in Bankruptcy Court in New York and related litigation in the United States. Awal Bank was destroyed by a major fraud in the Mideast, and, in a matter of first impression, David and his team successfully used the Chapter 15 case to assert Bankruptcy Code statutory avoidance claims against a global bank to recover assets taken from the Awal Bank overseas and transferred into the United States.
- Representing the Cayman Island liquidator of the SPhinX Funds (destroyed by the Refco fraud) in the Funds' Chapter 15 case and related litigation in the United States. David and his team prosecuted the Funds' claims in the Refco



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MDL presided over by Judge Jed Rakoff in the Southern District of New York. The Funds' claims are against aiders and abettors of the Refco fraud (including auditors, law firms and service providers). David was appointed by Judge Rakoff as Plaintiffs' Liaison Counsel for the Refco MDL.

- Representing the Central Bank of Bahrain in connection with the Chapter 11 case of Arcapita Bank, BSC (a Bahraini financial institution) in Bankruptcy Court in New York.
- Representing (i) the Ad Hoc Committee of Tort Claimants in connection with the Muscletech CCAA proceeding in Canada (the foreign ephedra bankruptcy) and Muscletech's Chapter 15 case and related litigation in the Southern District of New York (one of the first Chapter 15 cases), (ii) the Official Committees of Creditors (consisting principally of tort claimants) in the Chapter 11 cases of Twinlab, Metabolife and NVE (the domestic ephedra bankruptcies) and (iii) all of these Committees in the ephedra MDL in the Southern District of New York presided over by Judge Jed Rakoff. In each of the ephedra bankruptcy cases, David helped create the architecture for global resolution of all tort claims and negotiated multi-million dollar global settlements for the benefit of the tort claimants.
- Representing dozens of clergy abuse victims in the Chapter 11 case of the Diocese of San Diego in Bankruptcy Court in California and participating in the negotiation of a significant global settlement with the Diocese and its insurers for the benefit of victims.
- Representing diacetyl tort claimants in the Chapter 11 case of Chemtura Corporation in Bankruptcy Court in New York.

#### **PUBLICATIONS**

- Author, "Bankruptcies in Mass Tort Cases" and annual supplements, *Litigating Mass Tort Cases*, Vol. 1, Chapter 12, 2006 to 2014 (P. Rheingold, ed.).
- Interviewee, "A Look Inside the \$100 Million Tainted-Drug Settlement," *National Law Journal*, December 24, 2013 (interviewer, Sheri Qualters).



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- Co-author, "2nd Cir. Raises a Drawbridge to Chapter 15," *Law 360*, December 2013.
- Co-author, "The Ephedra Bankruptcy Cases and the Twinlab Global Settlement Model," *The Bankruptcy Strategist*, January 2008.

#### **SPEAKING ENGAGEMENTS**

- Panelist, "Recent Developments in Knowing Assistance and Accessory Liability in Fraud Cases," C-5 Conference on Fraud, Asset Tracing and Recovery, Miami, September 2014.
- Presenter, "The Impact of the GM Bankruptcy," HarrisMartin's MDL Conference: General Motors Ignition Switch Recall Litigation Agenda, Chicago, May 2014.
- Panelist, "Chapter 15 Update with Judges and Practitioners," ABI Caribbean Insolvency Symposium, San Juan, February 2014.
- Panelist, "The Use and Recognition of Standalone Injunctions in Cross-Border Insolvencies to Freeze and Recover Assets," C-5 Conference on Fraud, Asset Tracing and Recovery, Miami, November 2013.
- Panelist, "Cross-Border Restructuring Proceedings: A Global Up-Date," Commercial List Users' Committee/OBA Insolvency Law Section/OAIRP Educational Program, Toronto, Canada, June 2013.
- Presenter, "Case Study: *TCT Rubin v. Eurofinance SA*," C-5 Conference on Fraud, Asset Tracing and Recovery, Miami, October 2012.
- Panelist, "*Stern v. Marshall*: The Sky is Not Falling – A Reasoned Analysis of the Decision and Case Law to Date," ABI Caribbean Insolvency Symposium, San Juan, February 2012.
- Presenter, "Madoff Case-Study: Developing US Remedies for Failed Offshore Funds to Assist in Asset Recovery," C-5 Conference on Fraud, Asset Tracing and Recovery, Dubai, January 2012.



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- Panelist, "Ephedra / PPA Bankruptcies and Insurance Coverage - Dexatrim and TL Bankruptcy Plans - The Wave of the Future," Mealey's Ephedra & PPA Litigation Conference, New Orleans, June 2005.

#### **BAR ADMISSIONS**

- New York
- New Jersey
- California
- US Supreme Court
- US Courts of Appeals for the Second, Third and Ninth Circuits
- US District Courts for the Southern, Eastern and Northern Districts of New York, the District of New Jersey and the Northern District of Illinois
- Dubai International Financial Centre Courts

#### **AWARDS & HONORS**

- Named as 2014 ILO Client Choice Award Recipient for Insolvency and Restructuring
- Named a "Recognized Practitioner" in Litigation: General Commercial by *Chambers USA: America's Leading Lawyers for Business*
- Benchmark Litigation – Local Litigation Star, New York, 2013-2015
- Received highest peer review rating by Martindale-Hubbell (AV)